

BRAFMAN & ASSOCIATES, P.C.

ATTORNEYS AT LAW

767 THIRD AVENUE, 26TH FLOOR

NEW YORK, NEW YORK 10017

TELEPHONE: (212) 750-7800

FACSIMILE: (212) 750-3906

E-MAIL: BBRAFMAN@BRAFLAW.COM

BENJAMIN BRAFMAN

ANDREA ZELLAN

JOSHUA D. KIRSHNER

JACOB KAPLAN

ALEX SPIRO

MARK M. BAKER
OF COUNSEL

MARC AGNIFILO
OF COUNSEL
ADMITTED IN N.Y. AND N.J.

March 5, 2014

VIA HAND & ECF DELIVERY

Hon. Richard M. Berman
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, N.Y. 10007-1312

RE: U.S. v. DINESH D'SOUZA, 14 CR. 034 (RMB)

Dear Judge Berman:

At the outset, the defendant and his counsel wish to thank Your Honor for agreeing to modify the defendant's bail so as to permit him to travel to Cabo, Mexico for a speaking engagement. It is deeply appreciated. We hope that nothing in the Government's letter of March 5, 2014 causes the Court to change its mind on that issue.

In compliance with the Court's Order, I wish to respectfully advise Your Honor that the Australian speaking engagement in April, cannot be adjourned until after the defendant's trial in May. Mr. D'Souza is one of several speakers in a three day conference sponsored by the Calvary Church from April 11-13, 2014. The Conference has already been announced and Mr. D'Souza's participation cannot be moved. If given permission to attend, he will leave for the conference on April 9, 2014 and return on April 14, 2014, well before the start of his trial.

BRAFMAN & ASSOCIATES, P.C.

Obviously, Mr. D'Souza will abide by the Court's decision on this issue and if not permitted to travel to Australia, will cancel the commitment he made. He will also forfeit the \$14,000.00 Honorarium he was to be paid. For all of the reasons stated on the record before Your Honor at the Status Conference on March 4, 2014, however, we would respectfully urge Your Honor to permit the travel so that he may comply with his commitment. With respect to the Government's request that the Defendant sign appropriate extradition waivers, we have no objection.

As we noted at the Status Conference, the Defendant has known about the impending indictment for many months and appeared voluntarily when required to do so, knowing full well from counsel that he was to be indicted, what the charges would be and exactly what his advisory guideline range was. The Government's suggestion that Mr. D'Souza is now suddenly a flight risk in March, when he was not considered a flight risk in December, defies reasonableness and is a specious argument.

Simply put, in December of 2013 Mr. D'Souza had his passport, had the same ties to India then as he does now and was under no travel restrictions. He also knew with absolute certainty that he was going to be indicted for the exact crimes he is now charged with. If he was intent on fleeing, he could have done so then. Indeed, the timing of the Indictment until after January 1, 2014 was a courtesy extended to counsel for personal scheduling issues.

Mr. D'Souza is a world recognized scholar, author and public figure who is intent on clearing his name, not becoming a fugitive from justice, especially, when a review of the Discovery material suggests quite strongly that he will be exonerated at trial. At best, this is a marginal criminal case with no evidence whatsoever of any official corruption.

TRIAL DATE

Finally at the risk of further imposing on the courtesy already extended by Your Honor, I am respectfully requesting a one day adjournment of the trial date from May 19th to May 20th for personal reasons having nothing to do with the Defendant.

Thus, when we agreed on May 19th, as the trial date, I had forgotten that on Sunday May 18, 2014, I am giving the Law School graduation commencement address at Ohio Northern University Law School in Ada, Ohio. As I do not travel on the Sabbath, I am doing a round trip on Sunday the 18th, which requires a very early flight to Detroit on Sunday morning, a several hour drive to Ada, Ohio and the same ordeal on the return Sunday evening. While I am scheduled to be back in New York late Sunday night on May 18th, if we could begin on the 20th, the extra day would permit me to start the trial in a less exhausted condition.

I deeply apologize if this application causes any inconvenience to the Court's schedule. If the one day adjournment is not granted, I assure Your Honor that I will

BRAFMAN & ASSOCIATES, P.C.

appear on the 19th ready for trial, with no excuses. With respect to my application for the one day adjournment of the trial date, the Government has no objection.

Thank you for the courtesy your Honor has already extended in this and all matters.

Respectfully,



Benjamin Brafman

cc: *Carrie Cohen, Assistant United States Attorney (via email: Carrie.Cohen@usdoj.gov)*